



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Tri-State Motor Transit Company

File: B-256872

Date: December 29, 1994

DIGEST

An October 1992 amendment to the Military Traffic Management Command's Freight Traffic Rules Publication 1A, which discontinued the practice of shipping Department of Defense Unique Commodities and self-propelled vehicles as Freight All Kinds (FAK), cannot be applied retroactively to allow a carrier to charge higher rates for shipments in September 1990, despite the amendment's April 24, 1990, effective date. However, under our prior decision Tri-State Motor Transit Company, B-254372 et al., July 15, 1994, when the self-propelled vehicle transported is a wheeled vehicle, FAK rates do not apply because MTMC's letter to the carrier industry dated April 24, 1990, had stated that MTMC no longer would route wheeled vehicles as FAK.

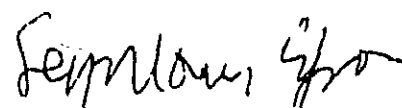
DECISION

Tri-State Motor Transit Company requests that we review the settlements of the General Services Administration with respect to its claims for additional charges in Government Bill of Lading transactions D-0,650,005 and D-0,711,194. We remand the first transaction to GSA for settlement as explained below, but we affirm GSA's settlement with respect to the second transaction.

Both transactions involved September 1990 shipments. Tri-State contends that the lower Freight All Kinds (FAK) rates under which it originally billed did not apply to either because the Military Traffic Management Command (MTMC) had amended items 112-116 of its Freight Traffic Rules Publication (MTTRP) 1A in October 1992 (retroactive to April 24, 1990) to preclude the application of FAK rates to "self-propelled" vehicles (D-0,650,005) and to other commodities for which the Department of Defense assigned a Unique Commodity Code (D-0,711,194). Tri-State contends that D-0,711,194 involved the shipment of engines under DOD Unique Code 120820 Sub 2 or Sub 3, and the record in D-0,650,005 indicates that the specific commodity was a bridge transporter of some type.

In our decision Tri-State Motor Transit Company, B-254372 et al., July 15, 1994, we noted that the Military Traffic Management Command advised the carrier industry that MTMC no longer would route "wheeled" vehicle shipments as FAK. The bridge transporter was transported after April 23, 1990, but we do not know whether it was a wheeled vehicle. If it was a wheeled vehicle, B-254372 et al. is dispositive of this Tri-State claim for the reasons stated in the decision. This claim is remanded to GSA for settlement in accordance with our decision B-254372 et al.

The factual situation in D-0,711,194 is similar to the one we considered in our decision Tri-State Motor Transit Company, B-255630, B-256081 and B-256873, Aug. 18, 1994; our decision is dispositive of this Tri-State claim for the reasons stated in the decision. In that decision we noted that the 1992 amendment was the first time that MTMC announced a policy change; there had been no prior communication in that respect. This is in contrast to the policy change concerning wheeled vehicles which was announced prior to the issuance of the amendment to the Freight Traffic Rules. We affirm GSA's settlement of this claim.


Robert P. Murphy
General Counsel